Analiza obstoječe zakonodaje s področja DOP v Sloveniji

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Povzetek
Prispevek temelji na Tematski študiji družbene odgovornosti podjetij v Sloveniji, ki je bila omogočena v okviru projekta ROAD-CSR, ki ga izvaja E-zavod in je sofinanciran iz programa INTERREG EUROPE. Študija ponuja kratek pregled politik in ukrepov Slovenije za vpeljavo in promocijo družbene odgovornosti podjetij (DOP) v slovenskem gospodarstvu. Ker Slovenija še ni razvila svoje strategije družbene odgovornosti podjetij ali nacionalnega akcijskega načrta, se študija osredotoča na identifikacijo dejavnikov, ki bi lahko začrtali DOP prioritete, in na prioritete, ki izhajajo z aktivnosti Vlade, nevladnih organizacij (NVO) in gospodarstva. Nadalje študija naslavlja pomanjkanje promocijskih aktivnosti, ki bi podjetja osveščala o mednarodnih okvirih in smernicah na področju. Sledi pregled zakonodajnih in strateških dokumentov, ki so pomembni za razvoj posameznih vidikov DOP področja v Sloveniji, ter pregled posameznih z DOP povezanih področij ter obstoječe zakonodaje, kot sta npr. tudi delovna in okoljevarstvena zakonodaja. Nazadnje se avtorji študije dotakneta najnovejšega in obenem najstarejšega področja DOP – davčne odgovornosti podjetij.

Ključne besede: družbena odgovornost podjetij, pregled zakonodaje, Slovenija, INTERREG EUROPE ROAD-CSR, E-zavod, nacionalni akcijski načrt

Analysis of the current legislation on CSR in Slovenia

Abstract
This paper is based on a Thematic Study of Corporate Social Responsibility in Slovenia, prepared as a part of the ROAD-CSR project, implemented in Slovenia by E-Institute and co-funded by INTERREG EUROPE programme. It offers a short overview of policies and measures taken by Slovenia to introduce and promote corporate social responsibility (CSR) among Slovenian companies. As Slovenia is yet to develop its CSR strategy or National Action Plan the study focuses on identifying the factors that could outline the national CSR priorities and the priorities emerging from Government, NGOs and business activities. Secondly, it addresses the lack of promotional activities among the business to promote the international frameworks and guidelines. The study then offers an overview of other legislative and strategic documents relevant for development of different aspects of CSR field in Slovenia, and an overview of individual fields and legislation connected to DOP, among others for example labour and environmental legislation. Finally, the authors mention the newest and the same time the oldest of CSR fields – the corporate tax responsibility.

Key Words: Corporate Social Responsibility, Legislation Overview, Slovenia, INTERREG EUROPE ROAD-CSR, E-zavod, National Action Plan
1 Introduction

This paper is based on a Thematic Study of Corporate Social Responsibility in Slovenia, prepared as a part of the project “A Roadmap for Integrating Corporate Social Responsibility into EU Member States and Business Practises” (ROAD-CSR), implemented in Slovenia by E-institute and co-funded by INTERREG EUROPE programme. The ROAD-CSR project aims to help EU member states to apply CSR as holistic management approach to SMEs to increase their competitiveness and accountability of SMEs to the society. To achieve that, the project started with exchange of experiences and best practices among the participating countries. Next steps are a creation of a road map for integrating CSR into national and regional legislations and programmes and a development of national/regional actions plans.1 Although 83 per cent of enterprises in Slovenia fall under the category of SMEs, providing over 72% of all jobs in Slovenia and almost 63% of the total value added, and are considered the engine of the Slovenian economy, they are not included in EC’s CSR related directives. Directives such as the Directive 2014/95/EU on disclosure of non-financial and diversity information by certain large undertakings and groups requires companies to disclose information on policies, outcomes and risks related to at least: Environmental matters, Social and employee aspects, Respect for human rights, Anticorruption and bribery issues, and Diversity in their board of directors. However, the transposition of the article on non-financial reporting to Slovenian Company Act is literal and thus presents a minimum commitment by the Slovenian government to CSR reporting. Although the Directive was in spirit meant for certain large companies, the transposition of the Article kept the number of employees at 500. In Slovenia, large companies are considered those with 250 employees and more. With conditions as they are, there is presumably less than 50 companies, which are required to report on non-financial and diversity information in Slovenia as per the Directive. However, this is a rough estimate provided in the draft law. According to AJPES there might be as low as 10 companies apart from insurance companies and banks that would need to report. In addition, subsidiaries are not required to report, if the parent company publishes a consolidated report in which the subsidiary is included.

Although transposed to Slovenian legislation, the Directive will thus most likely have no actual impact on the development of CSR in Slovenia. With proven positive relationship between SMEs and CSR and their competitiveness, it is important that Slovenia develops a national CSR strategy and National Action Plan, which are currently lacking, and make them appropriate for SMEs based economy.

2 CSR Legislation Overview and Assessment

In this paper, the authors are summarising and assessing the research on some of the policies covered in the above mentioned Thematic Study. The main finding is the fragmentation of policies giving companies legal basis for their CSR work.

No One Legislative Framework on CSR

Slovenia has yet to develop a national CSR strategy and CSR National Action Plan although it is committed to implementing them, both as a member of EU and OECD. National Contact Point (NCP) on the implementation of the OECD Guidelines for Multinational Enterprises has for years reported to OECD a lack of activities in the direction of the development of these documents. Listed reasons were lack of human resource capacities and lack of support
within the government. However, the first movements were made in 2016, when Slovenia finally translated the Guidelines for Multinational Enterprises and started with their promotion, although limited. In June 2017 the first new steps to develop necessary strategic documents after 2012 were taken with the organisation of the conference “Promoting Corporate Social Responsibility in Slovenia” by Partnership for green economy Slovenia in cooperation with Institute for development of Social Responsibility (IRDO), Network for Social Responsibility of Slovenia and partner organizations\(^\text{12}\). The conference brought a commitment by the government to develop the missing strategic documents by the end of the year.\(^\text{13}\) With upcoming parliamentarian elections, a concern was raised that this delicate process might be rushed.

Firstly, there is no official document identifying national CSR priorities. The one’s authors addressed in the study are according to the Slovenia’s report on the CSR practices submitted to the European Commission\(^\text{14}\). Secondly, there is a lack of holistic approach or direct reference to the CSR in existing strategic documents. Apart from Slovenian Industry Policy 2014, other existing strategic documents do not directly address CSR. In addition, even the mentioned Policy seems not to be a relevant document for the current government when it comes to CSR. Holistic understanding of CSR should be basis for the process.

It should be mentioned at this point that Slovenia is a bit further in the process of developing its National Action Plan on dissemination and implementation of the UN Guiding Principles on Business and Human Rights.\(^\text{15}\) This includes promotion and protection of fundamental workers’ rights in the entire production chain, which is one of key parts in CSR. Still the responsibility for it is divided among the Ministry of Foreign Affairs and the CSR NCP (under Ministry of Economic Development and Technology). The Ministry of Foreign Affairs has previously reported that the NCP is acting as a grievance mechanism also in the field of human rights\(^\text{16}\). On the other hand, the NCP reports they have no awareness raising programs on this issue due to lack of qualified staff.\(^\text{17}\) In addition, Human Rights Ombudsman, which would have appropriate qualifications, has only limited jurisdiction – over authoritative part of the public sector. Although with Ombudsman’s current resources, they are not prepared to widen this jurisdiction.\(^\text{18}\)

**Understanding CSR or copying the documents?**

One of Slovenia’s priorities is transposition of EU directives into Slovenian legislation, of which some are more thought over in the national context than others. Green and socially responsible public procurement for example is currently undergoing revision after its implementation and the active promotion within the public sector. Word-by-word transposition of directive on non-financial disclosure, on the other hand, will be binding for a very low number of Slovenian large companies and as such should have an insignificant impact for the development of CSR in Slovenia and globally.

Promotion of OECD Guidelines for Multinational Enterprises, UN Global Contact, UN Guiding Principles of Business and Human Rights, ISO 26000 and Global Reporting Initiative does not seem to be a priority as well as there are no developed communication strategies for the promotion of these global CSR approaches. The awareness raising and promotion of some of the approaches is completely in the domain of CSOs. In addition, government’s promotion of OECD Guidelines seems to be limited to foreign investors (through SPIRIT agency and tenders).\(^\text{19}\)
Promotion of Internal Dimension of CSR

On the other hand, Slovenia is giving a greater emphasis on social and employment policies. Apart from addressing the issues of long unemployment, unemployment of older workers etc. by offering incentives and implementing basic international standards or EU legislation regarding human and employment rights and anti-discrimination legislation, Slovenia has adopted awards and certificates for the recognition of exemplary business practice in social policies, which goes beyond legal requirements.

Socially responsible practices in Slovenian companies demonstrate that companies are indeed tending to implement more initiatives in the internal dimension of social responsibility than external. Companies are implementing measures and activities for their employees and demonstrating social responsibility of the company’s managerial level, such as concern for the employee welfare and happiness, education and training, cooperation with employees, non-discrimination measures, workplace safety and social security. “On the other hand, socially responsible practices such as employment of vulnerable groups, new jobs creation, customer and other business partner relationships as well as fostering relationships with local, social, natural and wider environments, are less likely to be implemented.”20 According to a study by agency PIAR21 on the understanding of CSR, at least half of the organisations in the study plans on focus their efforts on employees, a bit smaller percent on ecology, and only 28% of them will focus on systemic regulation of social responsibility in the organisation.

In the field of social and employment policies, Slovenia promotes respect for working standards and labour rights in Slovenia, social inclusion of vulnerable groups, fosters social dialogue and collective bargaining between employers and employees, promotes health and safety at work22, equal rights and opportunities and family-friendly working environment through awards and certificates.

The latter is often demonstrated with a support to CSOs’ work on the specific CSR fields – like aspects of employee welfare and in smaller part the environmental protection. However, rarely one is addressing CSR holistically.

Social Enterprises and CSR

A clue to the level of understanding of CSR in Slovenia was government’s attitude towards the social enterprises. Slovenia actively promotes the establishment of social enterprises. The exponential increase in social enterprises in last couple of years can be linked to public calls. However, the initiatives and financial support mechanisms show the lack of understanding of the role of social entrepreneurship by focusing mostly on employment for vulnerable groups in the labour market.23 In addition, there seems to be no control mechanism of their operations or later support to their further development. In the Public Procurement Act, Slovenia does allow a chance for public purchasers to reserve a public procurement call for social enterprises only. This way, social enterprises do not need to compete directly with other enterprises. Instead, it could allow for a preferential inclusion of social enterprises in the public procurement calls (foreseeing higher prices etc.), which would open social enterprises to compete in more calls.

In addition, the government tries to link as much as possible the development of social enterprises with the development of CSR24, giving the impression that only social enterprises are expected to behave socially responsibly. In addition, the authors found no evidence of
promotion of other socially responsible investments (or international standards) among the Slovenian investors and banks.

**Combatting Corruption**

One of the state priorities identified in the report to the EC is further improvement to the legislation defining the work of Anticorruption Commission to better combat corruption and enhance lobbying transparency in Slovenia. The changes in the legislation are slow and not without CSO’s critique. Apart of the legislation, efforts should go also in the regaining of public trust due to increasing number of scandals in regards to internal quarrels of the Anticorruption Commission and the lack of results. With the increase of media articles on past corruption cases, the public discontent is no longer limited to the current management of the Anticorruption Commission but the institution itself as well as to the judiciary system. Demonstrated disregard of lobbying transparency by the Anticorruption Commission and the government officials in some of the latest dealings further undermines the work under this priority.

**Environmental Protection vs Environmental Sustainability**

Slovenia has a number of policy documents regulating different aspects of environment protection, human rights as well as reduction of country’s climate impact. However, there is still “no comprehensive document aimed specifically at greening the national economy. Under the sustainable development priority, the focus is mostly on the reduction of pressures on the environment” by citizens and companies. In terms of environmental measures, we can hardly speak of promotion of CSR behaviour to tackle climate change and environmental sustainability, which should go beyond compliance with legal requirements.

**3 Corporate Tax Responsibility - Missing Field of CSR?**

CSR refers to “companies taking responsibility for their impact on society”. Usually adding to the definition that the “term generally applies to efforts that go beyond what may be required by regulators or environmental protection groups”. Since taxation is regarded as a much-regulated field, one might argue that tax responsibility does not fall under CSR. However, in recent years, there were a number of high-profile tax scandals involving multinational corporations optimising their tax bills to extremes. As tax is in business mostly perceived as a cost, some companies go further than most to lower their corporate tax payments. Within CSR discussion, we are limiting the discussion to tax avoidance, which is technically a legal activity that results in the minimisation of tax payments, rather than including the tax evasion, which is already by definition an illegal activity and as such perceived as socially irresponsible.

For example, the mismatches in national tax systems and the tax treaty system facilitate corporations to shift their profits from some of the countries they operate in to other countries with significantly lower corporate tax rates or special deals for foreign companies. For example, in November 2014, LuxLeaks scandal surfaced, when the International Consortium of Investigative Journalists published hundreds of secret tax rulings, leaked by former PwC employees, exposing how more than 350 of multinational corporations were using the system in Luxembourg to lower their global tax bills. It might be a legal practice, but is it also a moral one?
The authors argue that tax payments are the basic socially responsible contributions a company can make to the development of society or societies it operates in. Corporate taxes contribute to funding the essential public services, used by citizens and companies alike, including healthcare, education, public infrastructure and judicial system. These services raise living standards and build well-functioning economies, which makes them a good investment for future development and operations of the companies themselves.33

Investigations into individual corporation’s tax dealings, which followed the LuxLeaks, further ignited a debate on responsible tax behaviour among the public, in parliaments, among investors and finally in the CSR community. Among other, in late 2016, CSR Europe network launched a project on tax transparency and responsible tax behaviour,34 officially introducing tax responsibility in CSR discussion.

4 Concluding remarks

The study, on which this paper is based, offers a basic overview of the existing policies and measures taken by Slovenia to introduce and promote CSR among Slovenian companies. As such, it is meant to be a tool in the development of national CSR documents, appropriate for the economy based on SMEs. This process should be carefully thought out with inter-sectorial cooperation throughout its implementation. Companies and CSOs in Slovenia were left to address the issues of CSR on their own for a long time, with government only partially facilitating these efforts; therefore, experiences from the private and civil sectors are invaluable to the current process.

Literature and Sources

5 Thematic Study of Corporate Social Responsibility in Slovenia, prepared as part of the ROAD-CSR project, implemented in Slovenia by E-institute and co-funded by INTERREG EUROPE programme. Not yet published.
7 Agency of the Republic of Slovenia for Public Legal Records and Related Services managing the Business Register
9 Data provided by Bank of Slovenia on May 29th, 2017 based on public registers data. The following credit institutions operating in Slovenia meet the criteria of 500 or more employees: NLB, NKBM, Abanka, SKB, Unicredit and Intesa Sanpaolo.
10 AJPES’ reply to the inquiry (received on May 23rd, 2017). Unofficial estimate: there is less than 50 companies (insurance companies and banks not included) which have so far identified themselves as
subjects of public interest (noting that identification is not mandatory and is not subject of a check by AJPES or other authorities at this point, therefore the provided statistics can have substantive errors). Of those less than 10 companies reported in their published revised annual reports for 2016 to have 500 or more employees.


16 Information received by a member of the inter-sectorial working group.

17 Report to the Human Rights in Business working group by Ministry of Foreign Affairs

18 Report to the Human Rights in Business working group by Ministry of Economic Development and Technology

19 Report to the Human Rights in Business working group by Ombudsman


Analysis of Current Legislation on CSR in Slovenia


